(4)

Single Bench

CF1002

-2-

IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P.C No. 4962 /2006

Petitioner : DEEPAK KUMAR IJARDAR,
S/o Shri Jeevan Lal Ijardar,
aged about 40 yrs.
R/o Vinoba Nagar, Raigarh (C.G.)

P.R. No. 4924/06
Presented by Shri Santosh Singh
dated 2/9/06

VERSUS

Respondents :
1. State Transport Appellate Tribunal
State of Chhattisgarh, Raipur
2. Regional Transport Authority
(C.G.) at Raipur
3. Secretary,
Regional Transport Authority
Raipur (C.G.)
4. Naresh Kumar Sharma,
S/o Late Niranjan Sharma
Bus Operator,
R/o Near Bus Stand,
Sarangarh, Distt. Raigarh (C.G.)

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

COMMISSION

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 4962 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध) (32)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11.10.2006

Shri F.S. Khare, counsel for the petitioner.

Shri Arun Sao, Govt. Advocate for the respondents no.1, 2 & 3.

Shri Ajay Shrivastava, counsel for respondent no.4, who says that he has filed a caveat petition in this case.

Arguments heard.

Order dictated as follows:

ORAL ORDER

(11.10.2006)

Sunil Kumar Sinha, J,

By way of this writ petition filed under Article 226/227 of the Constitution of India, the petitioner has called in question the validity of the order dated 28.6.2006, passed by the State Transport Appellate Tribunal (STAT), Raipur, in Revision Case No.43/2006. The aforesaid revision was filed by respondent no.4 against the order dated 22.12.2005 passed by the Regional Transport Authority (RTA), Raipur, by which a permit to ply THE vehicle on the route from Pelma to Raigarh via Melupara, Saraidipa, Tamnar was ordered to be granted in favour of the petitioner and further a permit in *Form CGMVR-48* was granted by the State Authority in pursuance of the aforesaid order.

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मामला क्रमांक W.P.No.4962 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

33

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The main ground raised by respondent no.4 before the STAT was that though the order was passed by the RTA on 22.12.2005 for grant of the aforesaid permit but on the said date, the said route was not duly constituted by the State authorities and in that manner, the RTA was having no jurisdiction to grant any such transport permit on that route. The fact that the aforesaid route for which the permit was granted was not constituted on 22.12.2005, was neither disputed before the STAT nor it is disputed before this Court. Rather this fact was recorded in para 7 of the order passed by the STAT that the aforesaid route was constituted and was available for grant of permit etc., with the transport authorities on 3.3.2006 which is a subsequent date from the date of passing of the impugned order by the RTA on 22.12.2005. The Tribunal had taken this view that since the route itself was formulated on the said date, an order granting permit is not in accordance with law. It has also taken the view that the contention of the petitioner that for want of notified route he was permitted to ply the vehicle from Urba to Raigarh was not justified because there was no specific order of the said nature and no permit of such nature can be granted on the basis of the order

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आदेश पत्रक (पूर्वानुबद्ध) (34)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

dated 22.12.2005 passed by the RTA because that order was specified for the purposes of disposal of an application which was specifically filed for grant of permit from Pelma to Raigarh route, referred to above.

Before this court, learned counsel for the petitioner submits that it was not in the knowledge of the petitioner that the route of Pelma – Raigarh was not formulated or constituted by the State Authorities for grant of permit by the RTA., therefore, such an application was filed and the order dated 22.12.2005 was passed by the RTA. He submits that when this fact came to the knowledge of the petitioner, he prayed to the RTA for making a modification in the permit and allowing him to ply the vehicle from Urba to Raigarh and ultimately it was sanctioned by the RTA and the endorsement to this effect was made in the permit itself. His submission is that he should be allowed to continue his transport operations on the route specified as Urba to Raigarh and the order of STAT should be quashed/modified to this extent.

This contention raised by learned counsel for the petitioner has got no force. It is settled procedure that for grant of a particular permit, route must be available to the competent

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

authority and after receiving the application, the competent authority after following due procedure under the law, has to pass the order on it and then only a permit can be granted. There cannot be a grant of permit for a different route than one for which an application was made and if a permit was granted for that route, as prayed in the application, which was not constituted/formulated by the State Authorities, then the only way to meet the situation was to set aside the order granting such permit and also to cancel the permit which the STAT has done. There appears to be no illegality in the order passed by the STAT in Revision Case No.43/2006. The petition has no merit and the same is dismissed.

However, if the petitioner is desirous of obtaining a permit of the route, referred to above, he may file fresh application before the R.T.A which shall be considered and disposed of by the said authority in accordance with law.

C.C. as per rules.

Sd/-
Sunil Kumar Sinha
Judge

P.T.O.

16.10.06 Rao 13.11.06